

**STATE OF CALIFORNIA
BEFORE THE COMMISSION ON JUDICIAL PERFORMANCE**

**IN THE MATTER CONCERNING
JUDGE BRIAN LAMB**

**DECISION AND ORDER IMPOSING
PUBLIC ADMONISHMENT**

This disciplinary matter concerns Judge Brian Lamb, a judge of the Inyo County Superior Court since 2003. His current term began in 2015. Pursuant to rule 116 of the Rules of the Commission on Judicial Performance, Judge Lamb and his attorney, Daniel S. Agle, appeared before the commission on June 26, 2019, to contest the imposition of a proposed public admonishment issued on March 29, 2019. Judge Lamb has waived his right to formal proceedings under rule 118 and to review by the Supreme Court. Having considered the written and oral objections and argument submitted by Judge Lamb and his counsel, and good cause appearing, the Commission on Judicial Performance issues this public admonishment pursuant to article VI, section 18(d) of the California Constitution, based upon the following statement of facts and reasons.

STATEMENT OF FACTS AND REASONS

Judge Lamb engaged in improper conduct by failing to timely act in three family law cases and by signing two false salary affidavits. His prior discipline for similar misconduct—an advisory letter in 2006 and a private admonishment in 2015—were significant aggravating factors.

Canon 3B(8) of the Code of Judicial Ethics requires judges to dispose of all judicial matters promptly and efficiently. Canon 3 requires judges to perform their judicial duties competently and diligently. Canon 2A requires judges to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Under California law, judges are expected to decide matters submitted to them within 90 days of submission, and are prohibited from receiving their salaries when they have undecided matters under submission for more than 90 days. (Cal. Const., art. VI, § 19; *Mardikian v. Commission on Judicial Performance* (1985) 40 Cal.3d 473, 477, fn. 4.) Government Code section 68210 requires judges to execute affidavits declaring that they are in compliance with the law.

1. *In Regard to the Marriage of Richardson* (SICVFL15-57764). Judge Lamb delayed more than 14 months—from January 3, 2017 until March 6, 2018—in issuing a final judgment and statement of decision in this matter. Trial concluded on August 23, 2016. The matter was submitted for decision on September 2, 2016. Judge Lamb issued a judgment on December 2, 2016. The petitioner filed an ex parte application for relief from the judgment, requesting a statement of decision. Judge Lamb issued an order vacating the judgment, converting it to a proposed statement of decision, and inviting objections from the parties. Both parties timely filed objections on January 3, 2017. On February 10, 2018, Judge Lamb set a hearing on the objections for February 26, 2018. He did not issue the dissolution judgment or the statement of decision until March 6, 2018, more than 14 months after the parties filed their January 3, 2017 objections.

Judge Lamb recognized that a “considerable amount of time” passed between his receipt of objections on January 3, 2017 and his setting the hearing on February 10, 2018, and apologized for the delay. He said he “lost track” of the matter, but this is inconsistent with the fact that he ruled on a motion in the case in the intervening period. Judge Lamb’s “lost track” explanation is the same one he offered in connection with his 2006 advisory letter and his 2015 private admonishment.

The 14-month delay between the January 3, 2017 objections and the March 6, 2018 final judgment and statement of decision was unreasonable. (*Mardikian*, 40 Cal.3d at p. 477, fn. 4.) Delay in dissolution proceedings “necessarily prejudices the parties who are unable to remarry, utilize assets, or establish stable homes for the children of the marriage.” (*Id.* at p. 483, fn. 9.) Judge Lamb’s conduct violated canon 3B(8) and canon 3.

2. *In Regard to the Marriage of Faldowski* (SICVFL12-53648/15-58551). Judge Lamb delayed more than 12 months—from August 25, 2016 until September 5, 2017—before issuing a final statement of decision in this matter. A post-judgment request for order regarding child support, attorney fees, and support arrearages was submitted for decision on May 27, 2016. Judge Lamb issued a tentative decision 90 days later, on August 25, 2016. On September 15, 2016, the respondent filed a request for a statement of decision. Due to a clerical error, this request was not brought to Judge Lamb’s attention until six weeks later, on October 27, 2016. Judge Lamb granted himself a 40-day extension of time to December 5, 2016 to issue the statement of decision. The day before this extension ran out, Judge Lamb ordered the petitioner to draft the proposed statement of decision. The petitioner filed the proposed statement of decision on December 12, 2016, followed by timely objections and a reply, closing the pleadings on December 27, 2016. Judge Lamb did not issue the final statement of decision until September 5, 2017, more than 12 months after he had issued his tentative decision.

Judge Lamb contended that there is no deadline for the issuance of a final statement of decision. Judge Lamb was, however, still required by canon 3B(8) to resolve the matter fairly, promptly, and efficiently. Judge Lamb admitted that he was reminded of the outstanding final statement of decision on June 6, 2017, when he held a hearing on petitioner’s March 28, 2017 request for order, which stated that the parties were still waiting for the statement of decision and final judgment, and described the negative impact of the delay on the petitioner.

Judge Lamb nevertheless delayed an additional three months before issuing the final statement of decision. Issuing the final statement of decision more than 12 months after the tentative decision was unreasonable and violated canon 3B(8).

3. *In Regard to the Marriage of Kruse* (SICVFL16-59777). Judge Lamb ruled on a request for an order for support and attorney fees 63 days late in this matter. He presided over a hearing on the request on September 1, 2016. The matter was submitted for decision on October 4, 2016. Judge Lamb did not issue an order on the request until March 7, 2017, 63 days after the 90th day after submission. This delay was unreasonable and violated canon 3B(8).

Further, on December 6, 2016, the respondent filed a request for a ruling regarding attorney fees and costs, pursuant to Family Code section 2031, subdivision (a)(2), which requires that a ruling on fees must issue within 15 days of the hearing. Judge Lamb did not issue an order within 15 days. This also violated canon 3B(8).

Judge Lamb apologized for these delays and told the commission that he did not know how he “lost track” of this matter. He admitted, however, that a court operations manager sent him emails on November 30, 2016 and December 19, 2016, both of which attached a submitted matter list showing that the ruling in *Kruse* was due by January 3, 2017. He also admitted that the presiding judge sent him an email on December 20, 2016 reminding him of his upcoming submitted matter deadlines, including *Kruse*.

In addition, in January 2017 and February 2017, while *Kruse* remained pending and undecided in excess of 90 days, Judge Lamb signed and submitted salary affidavits pursuant to Government Code section 68210 in which he falsely declared that no cause remained pending and undetermined that had been submitted to him for decision in excess of 90 days. Judge Lamb stated that he did not know the January and February 2017 salary affidavits were false when he signed them, but the fact that a judge may be unaware that he or she has matters that have been under submission for more than 90 days is not a defense

to a charge of filing false salary affidavits. “A judge who executes a salary affidavit affirming he or she has no overdue ruling should take care to ensure that the statement is true when it is made.” (*Inquiry Concerning Freedman* (2007) 49 Cal.4th CJP Supp. 223, 246; *Public Admonishment of Judge John D. Kiriara* (2012), p. 3.) Lamb’s false salary affidavits violated his duty to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity of the judiciary (canon 2A).

Judge Lamb’s conduct was, at a minimum, improper action.

In determining to issue this public admonishment, the commission considered Judge Lamb’s prior discipline to be a significant aggravating factor. Judge Lamb received an advisory letter in 2006 for issuing a decision in a family law case 22 days after the 90th day after the matter had been submitted for decision. Judge Lamb stated that the matter “slipped between the cracks” and “dropped from his radar screen.” Judge Lamb told the commission he had conferred with his presiding judge and that they “redesigned their current practices for tracking submitted cases,” and “put in place parallel and redundant systems for calendaring of submitted matters, and for alerting judges to the pendency and status of those cases,” said he would meet with his presiding judge “on a regular basis to assure himself that matters are decided on a timely basis, and that [he] has the time and other resources he needs to file timely decisions on submitted matters,” and said that these changes were “to ensure nothing like this occurs again in Inyo County.” The commission considered Judge Lamb’s apology and remedial steps mitigating, but also warned him that the failure to promptly decide family law matters is particularly egregious in light of the harm to the parties.

Judge Lamb then received a private admonishment in 2015 for failing to issue a decision in a submitted matter until six months after he stated he would. Judge Lamb was reminded about the need to issue the decision approximately four months after the matter was submitted and obtained the file to determine

which judge was responsible for the matter, but failed to promptly review the file (and it was his case all along). During that time, another judge expressed concern to Judge Lamb about the submitted matter and the 90-day rule. A month later, Judge Lamb was provided definitive notice that it was his decision that was overdue, but he did not issue the decision until another month had passed. While the underlying matter remained pending and undecided in excess of 90 days, Judge Lamb also signed false salary affidavits declaring that no cause remained pending and undetermined that had been submitted to him for decision in excess of 90 days. Judge Lamb recognized that he should not have allowed the matter to “fall off his radar,” said he regretted the delay, and asserted that he did not knowingly sign the false salary affidavits. The private admonishment referred to the 2006 advisory letter, and the further delay in ruling after it became clear that Judge Lamb was responsible for the outstanding ruling, as aggravating factors.

The commission recognizes that Judge Lamb is a hard-working judge, but it did not consider his assertions about his workload or his apologies mitigating in this matter because he has been previously disciplined twice for similar misconduct.

Commission members Nanci E. Nishimura, Esq.; Hon. Michael B. Harper; Anthony P. Capozzi, Esq.; Ms. Sarah Kruer Jager; Ms. Kay Cooperman Jue; Hon. Lisa B. Lench; Dr. Michael A. Moodian; and Mr. Adam N. Torres voted for the public admonishment. Hon. William S. Dato, Mr. Eduardo De La Riva, and Mr. Richard Simpson did not participate.

Dated: July 2, 2019



Nanci E. Nishimura
Chairperson